



OLR RESEARCH REPORT

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BLIGHT LIENS

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You asked if the legislature could enact a law that allows municipalities to place a blight lien on a property owner's assets, rather than on the blighted property itself.

The Office of Legislative Research is not authorized to provide legal opinions and this report should not be considered one.

SUMMARY

It appears that the legislature could enact legislation allowing municipalities to place a lien on a property owner's assets for unpaid blight penalties. The legislation would be giving towns an additional method of recovering a debt owed to it. The law already authorizes towns to use a number of different methods to collect unpaid property taxes, including tax lien foreclosure ([CGS § 12-181](#)), alias tax warrants ([CGS § 12-162](#)), and collection by lawsuit ([CGS § 12-161](#)).

Without knowing the specific details of the proposal, it is unclear whether due process would require additional notice and opportunity for a property owner to have a hearing to contest liability for fines and placing the lien. The U.S. Supreme Court has long held that property owners have a constitutional right to notice and a hearing in the context of attachments (*Sniadach v. Family Finance Corp. of Bay View*, 395 U.S. 337, 342 (1969)) and that "even the temporary or partial impairments to property rights that attachments, liens, and similar encumbrances entail

are sufficient to merit due process protection (*Connecticut v. Doe*, 501 U.S. 1 (1991)). Ultimately, the notice and hearing provisions that might be required by the legislation depend on the (1) procedure (i.e., administrative or judicial) the municipality uses to collect the debt and (2) types of assets being attached or garnished (e.g., real estate, personal property, wages, or bank accounts).

In addition to due process concerns, there are other issues legislators might want to consider in crafting this legislation, including the potential for property owners to avoid personal liability by owning and operating the property through a corporate structure. Moreover, municipalities seeking to collect from a property owner's out-of-state assets would likely need to seek a court judgment in Connecticut and then seek a court order in the other state to enforce it.

At least one state, Pennsylvania, has already passed a law allowing municipalities to place a lien on the assets of blighted property owners. In 2010, the Pennsylvania legislature enacted the Neighborhood Blight Reclamation and Revitalization Act (Act 90) which among other things, allows municipalities to attach a lien to the assets of a property owner after a court enters a judgment, decree, or order against the owner for a property in serious violation of a code or regarded by the court as a public nuisance (53 Pa. Cons. Stat. Ann. § 6112). We have attached a copy of the relevant provisions of the statute for your review.

ATTACHING BLIGHT LIENS TO PRIVATE ASSETS

We spoke to Frank S. Alexander, Emory University School of Law professor and general counsel and co-founder of the Center for Community Progress, an organization that helps cities and states develop strategies to address vacant properties. He said that while communities have historically had a desire to hold property owners personally accountable for blighted properties, property owners often avoid liability by placing each property in the name of its own corporation. The law shields corporate officers (including limited liability corporation members) from personal liability for corporate activities, which precludes municipalities from going after their personal assets to recover unpaid blight fines.

Alexander also noted that municipalities would expend a lot of legal resources to go after property owners whose other assets are located out-of-state. Even if the town had a court in another state enforce a judgment against the individual and place a lien or attachment on his or her property, the judgment would not have priority over other liens or

mortgages previously filed on the property and real property would be subject to the state's foreclosure laws.

Alternatively, Alexander advocates that towns add unpaid blight fines to the owner's property tax bill to allow for enforcement through the state's tax foreclosure process.

BLIGHT ORDINANCE ENFORCEMENT UNDER EXISTING LAW

By law, municipalities can "make and enforce regulations for the prevention and remediation of housing blight" and establish fines of between \$10 and \$100 for each day a violation continues ([CGS § 7-148\(c\)\(7\)\(H\)\(xv\)](#)). Starting October 1, 2012, municipalities must give written notice of a violation to the property's owner and occupant and provide them with a reasonable opportunity to remediate the conditions before taking any enforcement action ([PA 12-146](#)). Municipalities that issue citations for blight violations must also establish a citation hearing procedure for individuals to contest their liability for the fines ([CGS § 7-152c](#)).

If the property owner fails to pay the penalties, [CGS § 7-148aa](#) allows the municipality to place "a lien upon the real estate against which the fine was imposed from the date of such fine." The blight liens take precedence over all other liens and encumbrances, except taxes, filed after July 1, 1997. Generally, the municipality collects the unpaid fines when the property is sold or alternatively, when it forecloses on the lien ([CGS § 12-181](#)).

A new law, [PA 12-146](#), establishes a new state blight fine that is in addition to these municipal blight penalties. The fine, which would be imposed by the courts, is up to \$250 for each day a willful violation of a local blight ordinance continues after a person received written notice and had a reasonable opportunity to remediate the conditions.

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